IN THE SECOND CIRCUIT COURT FOR DAVIDSON COUNTY, TENNESSEE
TWENTIETH JUDICIAL DISTRICT AT NASHVILLE

STATE OF TENNESSEE, *ex rel.* ROBERT E. COOPER, JR., ATTORNEY GENERAL and REPORTER, Plaintiff, v. HRC MEDICAL CENTERS, INC., a domestic corporation, *formerly known as* HAIR RESTORATION CENTERS OF TENNESSEE, INC., HRC MANAGEMENT MIDWEST, LLC, a foreign limited liability company, DAN E. HALE, D.O., *individually and as an officer*, DON HALE, *individually and as an officer*, BONNIE HALE, DIXIE HALE, *individually and doing business as* SOUTHERN BELLE CONSULTING, LLC, MICHAEL MONTEMURRO, *doing business as* MADMAC CONSULTING, LLC, HRC MEDICAL CENTERS HOLDINGS, LLC, a foreign limited liability corporation, HRC MANAGEMENT, LLC, a foreign limited liability corporation, DANA HELTON, in her capacity as Trustee of the CARDINAL REVOCABLE TRUST, BELLA VITA MEDICAL CENTERS, LLC, a domestic limited liability corporation, MIDWEST RESTORATIVE HEALTH, LLC, a foreign limited liability corporation, LEGACY MEDICAL CENTERS, LLC, a foreign limited liability corporation, and BIOLIFECYCLE MEDICAL CENTERS, LLC, Defendants.	FILED 2013 APR 26 AM 8:47 RICHARD R. ROOKER, CLERK JURY DEMAND Case No. 12C4047 [FILED UNDER SEAL]

EX PARTE STATUTORY TEMPORARY RESTRAINING ORDER
WITH ASSET FREEZES AND ORDER APPOINTING *PENDENTE LITE* RECEIVER

Before the Court is the State's *Ex Parte* Motion for a Temporary Restraining Order with Asset Freezes and Order Appointing *Pendente Lite* Receiver. The State asserts that the Motion should be heard without notice to the Defendants both to prevent the dissipation of assets and the destruction or concealment of documents by the Defendants. In support of the State's Motion, the State has submitted supporting exhibits, including the Affidavit of John McLemore with 83 attachments, a memorandum of law, a certificate of counsel, and an amended complaint.

Based on a review of the record, the State's Motion is GRANTED as set forth below.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. On October 10, 2012, this Court through an interchange agreement with Presiding Judge Joe Binkley, Jr., entered an *Ex Parte* Temporary Restraining Order that stated, among other things, that the State was likely to succeed on the merits of its action.

2. On December 27, 2012, this Court entered an Order Appointing a *Pendente Lite* Receiver Over HRC Medical Centers, Inc. and a Statutory Temporary Injunction. Among other things, the Statutory Temporary Injunction and the receivership order stated that the State was likely to succeed on the merits of its action. The receivership order also found that Defendants HRC Medical, HRC Management Midwest, Don Hale, and Dan Hale engaged in intentional misrepresentations and omissions about the safety, health risks, and side effects of its alternative regimen of "bio-identical" hormone replacement therapy, and that HRC Medical engaged in fraud.

3. At the same time that the State filed a motion for a TRO with Asset Freezes and Order Appointing *Pendente Lite* Receiver, the State amended its complaint to add Defendants Bonnie Hale, Dixie Hale, individually and doing business as Southern Belle Consulting, LLC ("Southern Belle"), Michael Montemurro doing business as MadMac Consulting, LLC

("MadMac"), HRC Medical Centers Holdings, LLC ("HRC Holdings"), HRC Management, LLC ("HRC Management"), Dana Helton in her capacity as Trustee for the Cardinal Revocable Trust ("Cardinal Revocable Trust"), Bella Vita Medical Centers, LLC ("Bella Vita"), Midwest Restorative Health, LLC ("Midwest Restorative"), Legacy Medical Centers, LLC ("Legacy"), and BioLifecycle Medical Centers, LLC ("BioLifecycle").

4. This Court continues to have jurisdiction over the subject matter of this case including the new claims asserted and relief sought under the Uniform Fraudulent Transfer Act ("UFTA"), Tenn. Code Ann. §§ 66-3-301 to -313 (2004).

5. There is good cause to believe that the Court will have personal jurisdiction over all parties hereto including the amended defendants based on Tenn. Code Ann. § 20-2-214(a)(6), Tenn. Code Ann. § 20-2-225(2), and *Manufacturers Consolidation Serv., Inc. v. Rodell*, 42 S.W.3d 846, 855 (Tenn. Ct. App. 2000) (holding that personal jurisdiction under State's long-arm statute collapses to inquiry of personal jurisdiction under Due Process Clause of the United States Constitution). Among other things, there is good cause to believe that:

> Midwest Restorative conducts business in Tennessee at 1790 Kirby Parkway, Suite 118, Germantown, TN 38138;
>
> Dixie Hale and Bonnie Hale are residents of Tennessee and substantially engaged in the activity alleged in the State's Amended Complaint from or within Tennessee;
>
> Bella Vita is a domestic limited liability corporation that has conducted business at 301 14th Avenue North, Nashville, TN;
>
> MadMac, Michael Montemurro's doing business as name, was located at 405 Duke Drive, Suite 240, Franklin, TN, collected the transfers alleged in the State's Amended Complaint at banks in Tennessee for Tennessee resident Dixie Hale;
>
> HRC Management and HRC Holdings made withdrawals and deposits, including those at issue in the State's Amended Complaint, from Tennessee

and in Tennessee bank branches;

Cardinal Revocable Trust is formed under the laws of Tennessee, has a Tennessee Grantor in Dan Hale, and has a Tennessee resident as trustee;

Legacy and officers or employees of HRC Medical planned and executed the fraudulent transfer of HRC Medical's wholly-owned clinics, including the Knoxville, Tennessee clinic location at 9123 Cross Park Drive, Knoxville, TN 37923, in Tennessee; executed a Letter of Authorization confirming the transfer of "ownership of HRC patients receiving hormone replacement therapy to Legacy Medical Centers, LLC" in Williamson County, Tennessee; caused harm through the transfer to Tennessee consumers; interfered with the HRC Medical Centers, Inc. receivership estate held in *custodia legis* with this Court; employed former HRC Medical employees in Tennessee who performed banking, payroll, accounting, and other tasks for Legacy from Tennessee; and

BioLifecycle has contacted hormone replacement therapy consumers in Tennessee, employs former employees of HRC Medical located in Tennessee, has rented property in Tennessee, has accessed HRC Medical's electronic records system ("ERS"), and is conducting business in Tennessee, including at 311 South Weisgarber in Knoxville, Tennessee.

6. Further, there is good cause to believe that venue in this Court and joinder are proper as to the amended parties. Among other things, there is good cause to believe that Bella Vita maintains its principal office at 301 14th Avenue North, Nashville, TN and that venue is proper under Tenn. Code Ann. § 20-4-104(2). Further, there is good cause to believe that Legacy, HRC Holdings, HRC Management, Midwest Restorative, and BioLifecycle are foreign corporations without registered agents in this state, whose registered agent by default is the Nashville-based Tennessee Secretary of State, and that venue is proper under Tenn. Code Ann. §§ 20-4-104(3)(B), 20-2-214, and 20-2-215. There is good cause to believe that MadMac Consulting is a doing business as name of Michael Montemurro, as a resident of Florida, may be served through the Nashville-based Tennessee Secretary of State under Tenn. Code Ann. §§ 20-2-214 and 20-2-215.

7. There is good cause to believe: that the UFTA was violated through obligations incurred by and transfers from HRC Medical to Don Hale, Dixie Hale, individually and doing business as Southern Belle, Dan Hale, Bonnie Hale, Michael Montemurro doing business as MadMac, Bella Vita, Legacy, and BioLifecycle; that the UFTA was violated through obligations incurred by and transfers from HRC Holdings and HRC Management Midwest to Midwest Restorative; that the State is likely to succeed on the merits of these UFTA claims, that this order is in the public interest, and that this order is within the authority granted to this Court under Tenn. Code Ann. § 66-3-308(3)(A), (B), and (C), Tenn. Code Ann. § 47-18-108(b)(1), its general equitable authority under Tenn. Code Ann. § 29-1-103, and Tenn. R. Civ. P. 65.03.

8. Under the UFTA, a creditor is "any person who has a claim." Tenn. Code Ann. § 66-3-302(4). Claims are broadly defined in the UFTA to include a right to payment, whether or not the right is reduced to judgment, liquidated, or disputed. Tenn. Code Ann. § 66-3-302(3). *See also,* Cmt. 4 to Tenn. Code Ann. § 66-3-302.

9. One of the ways a transfer or incurred obligation is fraudulent under the UFTA is if it is made with actual intent to hinder, delay, or defraud any creditor of the debtor. Tenn. Code Ann. § 66-3-305(a)(1). "Intent need not be shown by direct, actual evidence, but can be proved through objective indicia of fraud or 'badges of fraud.' In the presence of badges of fraud, fraudulent intent can be presumed." *In re Holcomb Health Care Servs., LLC*, 329 B.R. 622, 670 (Bankr. M.D. Tenn. 2004) (citations omitted). "Although the presence of a single badge may only raise the suspicion of debtor's fraudulent intent, the confluence of several badges can be conclusive evidence of fraudulent intent, absent significantly clear evidence of debtor's legitimate supervening purpose." *Id.* at 671.

10. In determining actual intent under Tenn. Code Ann. § 66-3-305(a)(1), consideration may be given, among other factors, to whether:

> (1) the transfer or obligation was to an insider [defined to include a relative of an officer or person in control of debtor, Tenn. Code Ann. § 66-3-302(7)(B)(vi), or a managing agent of the debtor, Tenn. Code Ann. § 66-3-302(7)(E)]; (2) the debtor retained possession or control of the property transferred after the transfer; (3) the transfer or obligation was disclosed or concealed; (4) before the transfer was made or obligation was incurred, the debtor had been sued or threatened with suit; (5) the transfer was of substantially all the debtor's assets; (6) the debtor absconded; (7) the debtor removed or concealed assets; (8) the value of the consideration received by the debtor was reasonably equivalent to the value of the asset transferred or the amount of the obligation incurred; (9) the debtor was insolvent or became insolvent shortly after the transfer was made or the obligation was incurred; (10) the transfer occurred shortly before or shortly after a substantial debt was incurred; and (11) the debtor transferred the essential assets of the business to a lienor who transferred the assets to an insider of the debtor.

Tenn. Code Ann. § 66-3-305(b).

11. A transfer is also fraudulent under the UFTA if:

> the transfer was made or the obligation was incurred by the debtor without receiving a reasonably equivalent value in exchange for the transfer or obligation and the debtor was insolvent at the time or the debtor became insolvent as a result of the transfer or obligation. Tenn. Code Ann. § 66-3-306(a); or
>
> the debtor made the transfer or incurred the obligation without receiving a reasonably equivalent value in exchange for the transfer or obligation, and the debtor was engaged or was about to engage in a business or a transaction for which the remaining assets of the debtor were unreasonably small in relation to the business or transaction, or the debtor intended to incur or believed or reasonably should have believed that the debtor would incur debts beyond the debtor's ability to pay as they became due. Tenn. Code Ann. § 66-3-305(a)(2).

12. Under the UFTA, a debtor is insolvent "if the sum of the debtor's debts is greater than all of the debtor's assets, at a fair valuation." Tenn. Code Ann. § 66-3-303(a). For purposes of determining all of the debtor's assets, assets do not include the property that is the subject of the fraudulent transfer. Tenn. Code Ann. § 66-3-303(d). Under the UFTA, a debtor who is not

paying his or her debts as they become due is presumed to be insolvent. Tenn. Code Ann. § 66-3-303(b).

13. Here, there is good cause to believe that:

HRC Medical, Don Hale, and Dan Hale had knowledge of the State's investigation by at least March 13, 2012, the date of HRC Medical's response to a story that WTVF, NewsChannel 5 aired on that date entitled, "State Attorney General Investigates HRC Medical" in which HRC Medical referenced "Questions about Tennessee State Attorney General Discussions with Patients;"

HRC Medical, Don Hale, and Dan Hale intentionally tried to conceal Dan Hale's continued financial connection to HRC Medical by representing, in their response to NewsChannel 5's March 13, 2012, story, that Dan Hale was no longer affiliated with the company and had retired, by paying Dan Hale as an "independent contractor" beginning in March and continuing until December 2012 in almost exactly the same amount that he was paid in wages before he announced his retirement, and by transferring his shares in HRC Medical to a revocable trust he controlled with his daughter as trustee;

On August 4, 2012, HRC Medical, Don Hale, Dan Hale, Michael Montemurro, HRC Medical's then-Chief Operating Officer who assumed a similar role for Legacy, Charlie Cannata of Bella Vita, owners of what would become Midwest Restorative, and others participated in a meeting that discussed "selling" the ownership interest in the JV centers that tied Don Hale or HRC to those centers "due to upcoming events," discussed selling the 100% corporate-owned centers to another entity/caretaker, referenced the Hale name being "tarnished in the circles of the regulatory and media world," and asked for interested parties in the plan to sign a notice of intent, which Don Hale, Grisel Wiley, Shane Dodgen, and Michael Montemurro, and others did;

HRC Medical, Don Hale, and Bella Vita, had knowledge that the State was interviewing former HRC Medical sales consultants by the time the transfer of HRC Medical's Nashville clinic was consummated on September 14, 2012;

Don Hale, other officers of HRC Medical, and employees of HRC Medical again had knowledge of the State's investigation when Caleb Raines, HRC Medical's IT Director, was served with a pre-filing subpoena for testimony on September 17, 2012; and

All of the Defendants had knowledge of the State's lawsuit following its filing on October 8, 2012.

14. Further, there is good cause to believe that:

HRC Medical was failing to pay debts as they became due at least by July 2012, and continuing until the entry of the receivership order on December 27, 2012;

HRC Medical had outstanding invoices over 90 days past due at least by July 2012, which continued until the entry of the receivership order on December 27, 2012;

Don Hale had knowledge of HRC Medical's liquidity problems in September 2012;

HRC Medical's former Chief Financial Officer sent notice to Don Hale on October 2, 2012 warning him of a 25% drop in collections and stating that at that level "HRC barely covers its costs;"

By October 15, 2012, Dixie Hale, who had authority to pay bills on behalf of HRC Medical, had only authorized the payment of a minimal number of outstanding bills in the previous two weeks;

On November 15, 2012, HRC Medical had a negative cash available balance of $21,487 and on November 16, 2012, a negative cash available balance of $13,308; and

By December 2012, HRC Medical's own balance sheet showed that it had accumulated negative equity of $1,514,389.

15. There is good cause to believe that the transfer of the Nashville office of HRC Medical to Bella Vita was made with actual intent to hinder, delay, or defraud the State as creditor of the debtor, based, among other things, on the following facts that are likely to be established at trial:

The transfer of HRC Medical's Nashville clinic was made to Bella Vita through its sole member, Susan Cannata, the former center manager of HRC Medical's Nashville clinic;

Before the agreement was signed, HRC Medical, Don Hale, and Bella Vita were aware that the State was conducting an investigation and was speaking to former employees;

HRC Medical continued to pay payroll and other expenses for Bella Vita after the transfer;

Charlie Cannata, Susan Cannata's husband, Director of Medical Operations, Bella Vita's spokesperson, and Bella Vita's *de facto* chief executive officer, participated in the August 4, 2012, meeting that discussed "selling" the ownership interest in the JV centers that tied Don Hale or HRC to those centers "due to upcoming events," discussed selling the 100% corporate-owned centers to another entity/caretaker, and referenced the Hale name being "tarnished in the circles of the regulatory and media world;"

Don Hale was contacted by former medical assistant Trina Lonning following her sworn testimony in the State's investigation. After Don Hale spoke with her, he asked Ms. Lonning to call Bill Fletcher, HRC Medical's public relations' agent on September 11, 2012;

The agreement between HRC Medical and Bella Vita dated September 14, 2012, contains a purchase price provision effective "as the business becomes profitable and as the business may afford," contains a 0% interest loan from HRC Medical if Bella Vita has negative cash flow, contains a blanket indemnification agreement referencing litigation against HRC Medical, Don Hale, and Dan Hale—the same names listed as subjects of investigation on the State's pre-filing subpoenas, and provides that HRC Medical assume liabilities for everything except for a small amount of advertising and utility costs incurred after August 2012;

Bella Vita employed the same staff, used the same alternative regimens of hormone replacement therapy, used the same compounding pharmacies as suppliers, used the same phone number, used the same address as HRC Medical's Nashville clinic; and, for a time, used HRC Medical's signage, "Amor Vie" trademark, and testimonials for advertisements; and

As of the filing of the State's Amended Complaint, neither Bella Vita nor anyone acting on its behalf has paid anything out-of-pocket to HRC Medical for the purchase of the Nashville clinic.

16. There is good cause to believe that HRC Medical's transfer of the Nashville clinic to Bella Vita was made at a time that HRC Medical was insolvent and for which HRC Medical did not receive a reasonably equivalent value in exchange.

17. There is good cause to believe that the transfer of HRC Medical's wholly-owned clinic locations, including its accounts receivable, to Legacy and BioLifecycle was made with actual intent to hinder, delay, or defraud the State as creditor of the debtor, based, among other things, on the following facts that are likely to be established at trial:

HRC Medical memorialized the plan for the fraudulent transfer to what would become Legacy. Michael Montemurro, HRC Medical's Chief Operations Officer who assumed the same role for Legacy, recorded the minutes of a meeting attended by Don Hale and others on August 4, 2012, that discussed "selling" the ownership interest in the JV centers that tied Don Hale or HRC to those centers "due to upcoming events," discussed selling the 100% corporate-owned centers to another entity/caretaker, referenced the Hale name being "tarnished in the circles of the regulatory and media world," and asked for interested parties in the plan to sign a notice of intent;

Don Hale, Grisel Wiley, Shane Dodgen, and Michael Montemurro, among others, signed a Notice of Intent referencing the August 4, 2012, meeting;

Dan Hale was part of discussions to sell the HRC Medical's locations to Ron Howell, Legacy's future sole member and Chief Executive Officer, as early as August 22, 2012;

Ron Howell flew to Nashville on September 5, 2012, to discuss transferring HRC Medical's wholly owned clinics to him;

After receiving a copy of a State investigative subpoena served on HRC Medical's IT Director, and sending it to HRC Medical's agent for public relations, Don Hale was advised on September 18, 2012, "I also think you need to go ahead and execute whatever you are going to do and get yourself out of harms [sic] way as far as selling the business" and "The sooner you execute a sale the better;"

Don Hale and Dixie Hale flew to Williamsburg, Virginia on October 3, 2012, to meet with Ron Howell to discuss the transfer of HRC Medical's wholly owned clinic locations;

Legacy was incorporated as a limited liability company on October 11, 2012, just three days after the filing of the State's lawsuit;

The only known written agreement between HRC Medical and Legacy is a letter of authorization signed by Don Hale and Ron Howell and notarized in Tennessee purporting to transfer "ownership of HRC patients receiving hormone replacement therapy" from HRC Medical's wholly-owned clinic locations to Legacy;

No money has ever been paid by Legacy, any other entity, or individual to HRC Medical for its asset purchase or control of HRC Medical's wholly owned clinic locations. Instead, HRC Medical paid $33,000 to Legacy in December, 2012;

Legacy operated at the same addresses of the clinic locations that HRC Medical wholly-owned, used the same business forms for hormone replacement therapy, billed consumers who had set up monthly payments without obtaining

a separate authorization, and employed essentially the same individuals that HRC Medical did at its corporate and wholly-owned locations;

Don Hale went to HRC Medical's corporate office on Saturday, December 29, 2012, after he received and had knowledge of the receivership order and removed records, including those referencing Legacy, out of the corporate office before the Receiver accessed the premises and without the Receiver's permission;

On January 28, 2013, after members of the Receiver's staff talked to former HRC Medical employees who were working for Legacy, in which conversations included discussion of Legacy, "BioLifecycle Medical Centers, LLC" was formed by Ron Howell, who is Legacy's sole member and Chief Executive Officer;

Like Legacy, BioLifecycle was formed as a Virginia limited liability corporation, listed Ron Howell as its sole member, Ron Howell as its registered agent, and 150 Research Drive, Hampton, Virginia as its primary address;

In at least one call with a consumer, Samantha Lansford, a former HRC Medical's employee of the Knoxville clinic, stated that "Legacy" had taken over all of HRC's contacts and that its new clinic was located at 311 South Weisgarber in Knoxville;

Samantha Lansford and Genvieve Trent contacted other former HRC Medical consumers of the Knoxville clinic referencing the name BioLifecycle and the address 311 South Weisgarber in Knoxville;

John Argerson, Holly Lusby, Samantha Lansford, and Genevieve Trent, all former employees or contractors at HRC Medical's Knoxville clinic location, have been listed on the electronic records system as employees of BioLifecycle in Knoxville; and

BioLifecycle has not paid HRC Medical for the ERS or its use or for anything else.

18. There is good cause to believe that HRC Medical's transfer of the accounts receivable of HRC Medical's wholly-owned clinic locations, including its accounts receivable, to Legacy and BioLifecycle was made at a time that HRC Medical was insolvent and for which HRC Medical did not receive reasonably equivalent value in exchange.

19. Further, there is good cause to believe that HRC Medical's transfer of the accounts receivable of HRC Medical's wholly-owned clinic locations, including its accounts

receivable, to Legacy and BioLifecycle was made without HRC Medical receiving a reasonably equivalent value in exchange when the remaining assets of HRC Medical were unreasonably small in relation to its business.

20. There is good cause to believe the transfer of HRC Medical's electronic records system ("ERS") to Legacy and BioLifecyle was made with actual intent to hinder, delay, or defraud the State as creditor of the debtor, based, among other things, on the following facts that are likely to be established at trial:

> The ERS was built by and under the direction of HRC Medical staff, referred to as "proprietary" by HRC Medical, and stored on servers and equipment that were purchased by HRC Medical;
>
> The backup server containing HRC Medical's ERS was placed at HRC Medical IT staff employee Justin Smith's home after Caleb Raines was served with a pre-filing subpoena for his testimony on September 17, 2012;
>
> The only known agreement between HRC Medical and Legacy speaks to the acquisition of hormone replacement therapy patients at HRC Medical's wholly-owned clinics, not the ERS or any other asset;
>
> Ron Howell of Legacy instructed former members of HRC Medical's IT department to drive the ERS to Legacy's business location in Virginia on January 2, 2013, after entry of the receivership order;
>
> Samantha Lansford and Genevieve Trent, both former HRC Medical's employees at the Knoxville clinic, accessed HRC Medical's ERS to contact former consumers of HRC Medical's Knoxville clinic; and
>
> Neither Legacy, BioLifecycle, nor any other entity or individual has paid HRC Medical any money for the ERS.

21. There is good cause to believe that HRC Medical's transfer of HRC Medical's ERS to Legacy and BioLifecyle was made at a time that HRC Medical was insolvent and for which HRC Medical did not receive a reasonably equivalent value in exchange.

22. There is good cause to believe the transfer of HRC Management Midwest's assets to Midwest Restorative was made with actual intent to hinder, delay, or defraud the State as

creditor of HRC Management Midwest, based, among other things, on the following facts that are likely to be established at trial:

> Grisel Wiley and Shane Dodgen attended the August 4, 2012, meeting, that discussed "selling" the ownership interest in the JV centers that tied Don Hale or HRC to those centers "due to upcoming events," discussed selling the 100% corporate-owned centers to another entity/caretaker, referenced the Hale name being "tarnished in the circles of the regulatory and media world," and asked for interested parties in the plan to sign a notice of intent;
>
> Don Hale, Grisel Wiley, and Shane Dodgen, among others signed a Notice of Intent referencing the August 4, 2012, meeting;
>
> At the time of the filing of the State's lawsuit, HRC Management Midwest, LLC, had two members, GSJ Joint Ventures, LLC, and HRC Holdings;
>
> On October 10, 2012, two days after the filing of the State's lawsuit, HRC Holdings agreed to purchase GSJ Joint Ventures, LLC's membership interest for no money paid to HRC Holdings, an assumption of all outstanding liability, and a general indemnification provision against future action by the Tennessee Attorney General;
>
> In his affidavit opposing the State' original receivership and injunction motions, Don Hale stated that the Memphis office had been closed;
>
> HRC Medical's accounting staff continued to process the payroll and other bills for Midwest Restorative and had several packages addressed to Midwest Restorative Health at 405 Duke Drive, Suite 240, Franklin, TN, at HRC Medical's corporate office;
>
> Midwest Restorative, through Grisel Wiley and Shane Dodgen, kept control of all of the clinic locations owned by HRC Management Midwest, including the Memphis clinic after its membership interest was purchased by HRC Holdings, used the same physical addresses, used the same phone numbers, used many of the same advertising content and claims, decided on the name change to Midwest Restorative, and had actual notice of both the Temporary Restraining Order and Complaint;
>
> No purchase agreement between HRC Management Midwest and Midwest Restorative Health is known to exist; and
>
> No individual or entity has paid HRC Management Midwest for the transfer of its assets.

23. There is good cause to believe that HRC Management Midwest's transfer of all its assets to Midwest Restorative Health was made at a time that HRC Management Midwest was

insolvent and for which HRC Medical did not receive a reasonably equivalent value in exchange, based on the following facts that are likely to be established at trial:

As of October 31, 2012, HRC Management Midwest and "HRC Memphis" had been delinquent on paying $44,759.65 and $115,304.91 to HRC Medical respectively for over 90 days according to HRC Medical's own QuickBooks entries;

As of December 11, 2012, HRC Management Midwest had cash collections of $407,340.23, but owed HRC Medical $393,209.79 in out-of-pocket expenses incurred more than 90 days prior, $48,750 in SalesForce expenses, and an additional $250,000 note payable to HRC Medical; and

HRC Management Midwest received no payment for essentially all of its assets being assumed by Midwest Restorative.

24. There is good cause to believe the two transfers of $459,000 on October 15, 2012, one to Bonnie Hale and one to a joint account for Don and Dixie Hale, were made with actual intent to hinder, delay, or defraud the State as creditor of the debtor, based, among other things, on the following facts that are likely to be established at trial:

The initial transfers of money from bank accounts that HRC Medical controlled began on October 9, 2012, the day after the State filed suit;

The two transfers of $459,000 on October 15, 2012, were four days before the then-scheduled temporary injunction and receivership hearing on October 19, 2012;

The wire transfer of $459,000 was made payable to Bonnie Hale, wife of Dan Hale, who has never worked in any capacity for HRC Medical;

Dixie Hale had a cashier's check issued for $459,000 in the name of Don Hale, which she deposited into an account held jointly by her and Don Hale;

The dividend authorized by the Board of Directors of HRC Medical for these transfers was not for $459,000 but for $392,500 to each shareholder;

HRC Medical attempted to justify the transfers as payments for the taxes both Don Hale and Dan Hale would incur as a result of HRC Medical's "S" Corporation election, in which tax liability "passes through" to shareholders;

Even if some portion was eventually paid to the Internal Revenue Service for 2011 income taxes, the $918,000 transferred exceeded the maximum tax liability that Don Hale and Dan Hale would have incurred as a result of the S Corporation election, which was $361,912 each based on a 32% effective tax rate using the maximum 35% marginal tax bracket and assuming no exemptions or deductions;

The collective transfer of $918,000 exceeded the amount that HRC Medical would have incurred had it filed as a "C Corporation;" which would have been a maximum of $770,000 based on a 35% tax rate;

Dan Hale was previously paid $135,200 by HRC Medical for estimated taxes on April 16, 2012, which, if paid to the IRS would have been credited against his tax liability; and

Don Hale was previously paid $134,800 by HRC Medical for estimated taxes on April 16, 2012, which if paid to the IRS would have been credited against his tax liability.

25. There is good cause to believe the two transfers of $459,000 on October 15, 2012, to Bonnie Hale and to a joint account for Don and Dixie Hale, were made at a time that HRC Medical was insolvent and for which HRC Medical did not receive reasonably equivalent value in exchange.

26. Further, there is good cause to believe the two transfers of $459,000 on October 15, 2012, one to Bonnie Hale and one to a joint account for Don and Dixie Hale, were made without reasonably equivalent value in exchange and left HRC Medical's remaining assets as unreasonably small in relation to its business.

27. There is good cause to believe the two transfers totaling $60,000 on November 14, 2012, to Bonnie Hale and to a joint account for Don and Dixie Hale, were made with actual intent to hinder, delay, or defraud the State as creditor of the debtor, based, among other things, on the following facts that are likely to be established at trial:

The transfers were made two days before the scheduled hearing on the State's initial receivership and injunction motion;

The wire transfer of $30,000 was made payable to Bonnie Hale who has never worked in any capacity for HRC Medical;

Dixie Hale had a cashier's check issued for $30,000 in the name of Don Hale, which she deposited into an account held jointly by her and Don Hale;

HRC Medical attempted to justify the transfers as needed for tax penalties;

Even if some portion was eventually paid to the Internal Revenue Service for tax penalties, these amounts were not certain or known at the time of the transfers;

The amounts transferred were not specifically calculated penalty amounts but the "round dollar amounts" of $30,000 each; and

HRC Medical had negative cash available on November 15 and 16, 2012, following the transfer.

28. There is good cause to believe the two transfers totaling $60,000 on November 14, 2012, to Bonnie Hale and to a joint account for Don and Dixie Hale, were made at a time that HRC Medical was insolvent and for which HRC Medical did not receive reasonably equivalent value in exchange.

29. Further, there is good cause to believe the two transfers totaling $60,000 on November 14, 2012, to Bonnie Hale and to a joint account for Don and Dixie Hale, were made without reasonably equivalent value in exchange and left HRC Medical's remaining assets as unreasonably small in relation to its business.

30. There is good cause to believe that the transactions involving the recording of dividends totaling $980,000 on HRC Medical's accounting records, which were used to wipe away the notes receivable of Don Hale and Dan Hale, and, in effect, convert them into notes payable, were made with actual intent to hinder, delay, or defraud the State as creditor of the debtor, based, among other things, on the following facts that are likely to be established at trial:

The transactions were recorded two days before the scheduled hearing on the State's initial receivership and injunction motion;

A dividend for the year had been declared already by the Board of Directors in October 2012; and

The QuickBooks accounting entries were the only place where the status of HRC Medical's notes receivable from corporate officers, including Don Hale and Dan Hale, were kept.

31. There is good cause to believe the transactions involving the recording of dividends totaling $980,000 on HRC Medical's accounting records, which were used to wipe away the notes receivable of Don Hale and Dan Hale, and, in effect, convert them into notes payable, were made at a time that HRC Medical was insolvent and for which HRC Medical did not receive reasonably equivalent value in exchange.

32. Further, there is good cause to believe that the transactions involving the recording of dividends totaling $980,000 on HRC Medical's accounting records, which were used to wipe away the notes receivable of Don Hale and Dan Hale, and in effect convert them into notes payable, were made without reasonably equivalent value in exchange and left HRC Medical's remaining assets as unreasonably small in relation to its business.

33. There is good cause to believe the transfer of $35,000 to Bonnie Hale on December 5, 2012, was made with actual intent to hinder, delay, or defraud the State as creditor of the debtor, based, among other things, on the following facts that are likely to be established at trial:

The transfer was made one day before the continued scheduled hearing on the State's initial receivership and injunction motion;

The wire transfer of $35,000 was made payable to Bonnie Hale who has never worked in any capacity for HRC Medical;

The QuickBooks memo note for the transaction indicates: "Ok to pay wire – per Don. Dr. Hale needed cash;" and

By the end of December 2012, HRC Medical had only $31,547.18 in cash and $939,987.45 in accounts payable according to its own accounting entries.

34. There is good cause to believe that the transfer of $35,000 to Bonnie Hale on December 5, 2012, was made at a time that HRC Medical was insolvent and for which HRC Medical did not receive reasonably equivalent value in exchange.

35. Further, there is good cause to believe that the transfer of $35,000 to Bonnie Hale on December 5, 2012, was made without reasonably equivalent value in exchange and left HRC Medical's remaining assets as unreasonably small in relation to its business.

36. There is good cause to believe that Don Hale, Dixie Hale, and other officers and employees of HRC Medical intentionally redirected incoming payments from joint venture clinic locations based on the percentage of monthly gross sales previously paid to HRC Medical to Dixie Hale following the filing of the State's lawsuit, based, among other things, on the following facts that are likely to be established at trial:

> Cancelled checks show that joint venture partners regularly issued checks for the percentage of monthly gross sales made payable to "HRC Medical," "HRC Medical Centers," or "HRC Medical Centers – Nashville" or through similar payee names;
>
> HRC Medical's own records referenced the percentage of monthly gross sales checks being made payable to HRC Medical;
>
> Following the filing of the State's lawsuit, HRC Medical's records, including cancelled checks and e-mails, show that Dixie Hale, Southern Belle Consulting, and MadMac received the percentage of monthly gross sales checks, and further, that Southern Belle Consulting and MadMac were doing business as names used to pay Dixie Hale this amount;
>
> Dixie Hale received at least three monthly percentage of gross sales checks payable to her totaling $28,577.08 in December 2012;
>
> After Dixie Hale received the three monthly percentage of gross sales checks totaling $28,577.08 made payable to her, Julie Boyett, HRC Medical's bookkeeper stated "You will have to deposit these first.. since they are payable to you .. they put adjust your cashiers [sic] for deposit. You will need to notify locations to make payable to Madmac Consulting LLC;"
>
> Southern Belle Consulting's Electronic Identification Number references Dixie Marie Hale as the sole member;

Dixie Hale, Julie Boyett, and Dane Hale are listed as signatories on Southern Belle's bank account at Fifth Third; and

Julie Boyett and Michael Montemurro are listed as signatories on MadMac's bank account at Fifth Third.

37. There is good cause to believe that Don Hale, Dixie Hale, and other officers and employees of HRC Medical intentionally redirected incoming payments owed to HRC Medical for SalesForce to Dixie Hale following the filing of the State's lawsuit, based, among other things, on the following facts that are likely to be established at trial:

HRC Medical would send invoices to joint venture locations for use of SalesForce, a customer relations management tool, for $3,250 per month made payable to HRC Medical;

HRC Medical paid the original SalesForce expenses directly including on July 27, 2012, and October 1, 2012;

Joint venture partners sent monthly checks for $3,250 each made payable to HRC Medical prior to the filing of the State's lawsuit;

HRC Medical had booked outstanding SalesForce invoices from joint venture partners in its accounting records as accounts receivable;

Dixie Hale received and cashed checks for SalesForce that were supposed to be payable to HRC Medical; and

On November 14 and 15, 2012, two checks were made payable to "Southern Bell [sic] Consultants." The check dated November 14, 2012, is attached to an invoice that states "CRM – Salesforce – 10/1 – 10/31/12." The check dated November 15 contains the memo Nov. (PIF) and includes an invoice stating "CRM – Salesforce – 11/1-11/30/12.

38. There is good cause to believe that Don Hale, Dixie Hale, and other officers and employees of HRC Medical intentionally redirected incoming payments owed to HRC Medical from MasterPharm and DCA Pharmacy following the filing of the State's lawsuit, based, among other things, on the following facts that are likely to be established at trial:

In his affidavit opposing the original receivership and temporary injunction motion, Don Hale stated, "Masterpharm has a rebate *that is provided to HRC*

based on the number of pellets ordered over a particular time period." Def.'s Ex. 1 at para. 13 (emphasis added);

HRC Medical had bank accounts at both SunTrust and Fifth Third that were used to initially deposit incoming money received from MasterPharm and DCA Pharmacy;

After the filing of the State's lawsuit, this money has ceased being sent to HRC Medical;

Don Hale and Dixie Hale were notified on November 30, 2012, that HRC Medical had not collected checks from MasterPharm for September, October, and November 2012 and from DCA Pharmacy for May, June, August, September, October, and November; and

No deposits from Masterpharm or DCA Pharmacy were made into bank accounts controlled by HRC Medical after November 30, 2012.

39. There is good cause to believe that Dixie Hale and Don Hale have concealed other assets, based among other things, on the following facts that are likely to be established at trial:

Don Hale purchased a black luxury car for Dixie Hale as a Christmas present in 2012 and paid-in-full; and

As of March 2012, no new cars have been registered in Tennessee since October 1, 2012, in the names of Dixie Hale, Don Hale, Dan Hale, Bonnie Hale, Dana Helton, Mike Montemurro, Ron Howell, HRC Medical Centers, Inc., HRC Medical Centers Holdings, LLC, HRC Management, LLC, HRC Management Midwest, LLC, Midwest Restorative Health, LLC, Southern Belle Consulting, MadMac Consulting, DC Consulting, or Legacy Medical Centers, LLC.

40. There is good cause to believe that consistent with *Oceanics Schools, Inc. v. Barbour*, 112 S.W.3d 135, 140 (Tenn. Ct. App. 2003) and *Edmunds v. Delta Partners, LLC*, No. M2012-00047-COA-R3-CV, 2012 WL 6604580, at *11 (Tenn. Ct. App. Dec. 18, 2012), HRC Holdings and HRC Management's corporate statuses should be disregarded as necessary to accomplish justice and based on evidence likely to show the two entities were used as complete extensions of HRC Medical, Don Hale, and Dan Hale for a common enterprise, were used as a funding source for transfers that likely violate the UFTA, physically used the same office as

HRC Medical, and generally operated in a functionally indistinguishable manner to HRC Medical. Further, there is good cause to believe that HRC Holdings was used to absorb liability to HRC Management Midwest so that a transfer could be made to Midwest Restorative.

41. There is good cause to believe that HRC Medical, including through the HRC Management and HRC Holdings bank accounts, used its bank accounts frequently to pay for personal expenses of Don Hale and Dan Hale.

42. There is good cause to believe that Defendants acquired the assets and property outlined above through fraud and that they merely hold the property in a constructive trust for the HRC Medical receivership estate. *See In re Hicks* 176 B.R. 466, 471 (Bankr. W.D. Tenn. 1995).

43. There is good cause to believe that the Cardinal Revocable Trust was set up as a way to defraud creditors, was merely an extension of its Grantor, Dan Hale, should be terminated, and subject to any liability found against Dan Hale, pursuant to Tenn. Code Ann. §§ § 35-15-404, 35-15-410(a), and 35-15-505(a)(1), based on based on the following facts that are likely to be established at trial:

> The trust was set up after HRC Medical and Dan Hale had been the subjects of negative news reports and Dan Hale's medical license application was denied by the North Carolina Medical Board and his conduct referenced in the denial was referred to the Wake County District Attorney for prosecution;
>
> Don Hale sent the following e-mail to HRC Medical's public relations agent on February 28, 2012, in response to an e-mail notifying him that a reporter was asking questions about the North Carolina Medical Board's denial:
>
> > Bill,
> >
> > I just talked to Dana about Dr. Dan's stock being put into a trust. The trust has been setup and I am hoping this can be done today. *That way we can say he does not own an interest in the company and is not an officer in the company. . . .*
> >
> > Thanks,

Don;

The trustee is Dan Hale's daughter Dana Helton;

The Trust specifically provides that the spendthrift provisions do not apply to Dan Hale, the Grantor;

Dan Hale reserves the "absolute and uncontrolled right and power to act alone to take or omit to take any action with regard to sales, investments, retention of assets, or any other matter or matters relating to the administration of the trust estate or the investment or reinvestment of property constituting the trust estate;

Dan Hale reserves the right to revoke the trust agreement in its entirety during his lifetime, as well as the right to withdraw all or such part of the assets then constituting the trust estate and the right to amend, alter, or modify the trust agreement; and

The trust's acquisition of shares of HRC Medical was done to make it seem on paper as if Dan Hale was no longer associated with HRC Medical.

44. There is good cause to believe that Don Hale and Dan Hale are likely to conceal or destroy documents based on the following fact, which is likely to be established at trial that, despite dedicated e-mail addresses, both Don Hale and Dan Hale began using e-mail accounts, such as hrcdonhale@gmail.com and drdanhale@gmail.com, to conduct business for HRC Medical that were outside of the HRC Medical e-mail system.

45. There is good cause to believe that Defendant Don Hale is likely to conceal or destroy documents based on evidence that is likely to be established at trial or a hearing showing that he entered HRC Medical's corporate office on Saturday, December 29, 2012, without the permission of the Receiver and with knowledge of the receivership order, to take boxes of HRC Medical documents, including records pertaining to Legacy, out of the office.

46. There is good cause to believe that immediate and irreparable damage to the Court's ability to grant effective final relief for consumers in the form of monetary restitution

will occur from the sale, transfer, or other disposition or concealment by Defendants of assets or records if Defendants are provided with advance notice of this Order, and that the interests of justice require that this Order be granted without prior notice to Defendants. There is thus good cause for relieving the State of the duty to provide Defendants with prior notice of the State application.

47. Weighing the equities and considering the Plaintiff's likelihood of ultimate success, a Temporary Restraining Order ("Order") with Asset Freezes and Order Appointing a *Pendente Lite* Receiver is in the public interest.

48. Pursuant to Tenn. Code Ann. § 47-18-108(b)(1), this order is necessary to preserve funds to restore ascertainable losses to consumers should any be awarded.

49. This order is necessary to the ends of substantial justice.

ORDER

I. DEFINITIONS

For purposes of this Order, the following definitions shall apply:

1. "Asset" means any legal or equitable interest in, right to, or claim to, any real, personal or intellectual property, including, without limitation, bank accounts, real estate, automobiles, boats, sports memorabilia, accounts receivable, chattels, goods, instruments, equipment, fixtures, general intangibles, leaseholds, mail or other deliveries, inventory, checks, notes, accounts, credits, contracts, receivables, shares of stock, and cash, wherever any such Asset is located, whether in Tennessee or elsewhere. For purposes of Michael Montemurro, doing business as MadMac, Asset includes any Asset titled to or derived from the doing business as name MadMac Consulting, LLC.

2. "Cooperate" shall include, but shall not be limited to, the following: (1) to reply immediately in writing to any inquiry from the Receiver requesting such a reply; and (2) to preserve and make available to the Receiver any and all books, bank and investment accounts, documents, or other records or information or computer programs and databases or property of or pertaining to the Defendants and in their possession, custody or control.

3. "Document" is equal in scope and synonymous in meaning to the usage of the term in the Tennessee Rule of Civil Procedure 34.01, and includes electronic data, writings, drawings, graphs, charts, photographs, audio and video recordings, computer records, and any other data compilations from which information can be obtained and translated, if necessary, through detection devices in reasonably usable form. A draft or non-identical copy is a separate document within the meaning of the term.

4. "Electronic Records System and Data" or "ERS" means the electronic records system used by Defendant HRC Medical, and the data populating the ERS, copies of which were transported to Legacy on or about January 2, 2013.

II. EVIDENCE DESTRUCTION

IT IS THEREFORE ORDERED that Defendants Don Hale, Dixie Hale, in her individual capacity and doing business as Southern Belle, Dan Hale, Bonnie Hale, Michael Montemurro, doing business as MadMac, Dana Helton, in her capacity as Trustee for the Cardinal Revocable Trust, Bella Vita, Midwest Restorative, Legacy, HRC Management, HRC Management Midwest, HRC Holdings, BioLifecycle, and any other person in active concert or participation with these Defendants and individuals who receives actual notice of this Temporary Restraining Order by personal service or otherwise are hereby restrained from:

A. Destroying, erasing, mutilating, concealing, altering, transferring or otherwise

disposing of, in any manner, directly or indirectly, any documents that relate to the business, business practices, Assets, transfers, or business or personal finances of any Defendant; and

B. Failing to retain or safeguard documents that reflect Defendants' incomes, disbursements, transactions, and use of money.

IT IS FURTHER ORDERED that Defendants Don Hale, Dan Hale, Bonnie Hale, Dixie Hale, individually and doing business as Southern Belle, Michael Montemurro, doing business as MadMac, Dana Helton, in her capacity as Trustee for the Cardinal Revocable Trust, Bella Vita, Midwest Restorative, Legacy, HRC Management, HRC Management Midwest, HRC Holdings, BioLifecycle, and their officers, directors, stockholders, members, subscribers, managers, agents, employees and independent contractors, and/or vendors who have been hired to perform and maintain off-site networks and databases and who have received actual notice of this order are enjoined and prohibited from waste or disposition of these Defendants' property, of the destruction, deletion, modification, or waste of their records, database or computer files, in whatever form and wherever located.

III. ASSET FREEZES

IT IS THEREFORE ORDERED that Defendants Don Hale, Dixie Hale, in her individual capacity and doing business as Southern Belle, Dan Hale, Bonnie Hale, Michael Montemurro, doing business as MadMac, Dana Helton, in her capacity as Trustee for the Cardinal Revocable Trust, Bella Vita, Midwest Restorative, Legacy, HRC Management, HRC Management Midwest, HRC Holdings, BioLifecycle, and any other person in active concert or participation with these entities and individuals who receives actual notice of this Temporary Restraining Order by personal service or otherwise are hereby restrained from:

A. Transferring any Asset except to the Receiver as part of this Order;

B. Liquidating, converting, encumbering, pledging, loaning, selling, concealing, dissipating, disbursing, assigning, spending, withdrawing, granting a lien or security interest or other interest in, or otherwise disposing of any funds, real or personal property, accounts, contracts, consumer lists, shares of stock, or other Assets, or any interest therein, wherever located, that are (1) owned or controlled by any Defendant, in whole or in part; (2) held for the benefit of any Defendant; (3) in the actual or constructive possession of any Defendant; or (4) owned, controlled by, or in the actual or constructive possession of any individual, corporation, partnership, or other individual or entity directly or indirectly owned, managed or controlled by any Defendant, including, but not limited to, any Assets held by or for, or subject to access by, any Defendant at any bank or financial institution, or with any broker-dealer, escrow agent, title company, commodity trading company, precious metals dealer, or other financial institution or depository of any kind;

C. Physically opening or causing to be opened any safe deposit boxes titled in the name of, or subject to access by, any Defendant;

D. Obtaining a personal or secured loan encumbering the Assets of any Defendant; and incurring liens or other encumbrances on real property, personal property or other Assets titled in the name, singly or jointly, of any Defendant.

IT IS FURTHER ORDERED that any bank, savings and loan association, financial institution or other person, which has on deposit, in its possession, custody or control any funds, accounts and any other Assets of the Entity Receivership Defendants, including financial institution accounts controlled by or held in the name of other account holders shall immediately freeze the accounts and allow no transactions on the accounts until further order of this Court. No bank, savings and loan association or other financial institution shall exercise any form of set-off, alleged

set-off, lien, any form of self-help whatsoever, or refuse to freeze funds or Assets.

IV. RETENTION OF ASSETS AND RECORDS BY FINANCIAL INSTITUTIONS

IT IS FURTHER ORDERED that, pending determination of the State's requests for a preliminary injunction and *pendente lite* receivership, any financial or brokerage institution, business entity, or person served with a copy of this Order that holds, controls or maintains custody of any account or Asset of any Defendant shall:

A. Hold and retain within its control and prohibit the withdrawal, removal, assignment, transfer, pledge, encumbrance, disbursement, dissipation, conversion, sale, or other disposal of any such Asset, except by further order of the Court;

B. Deny any person, except the Receiver, access to any Asset, including any bank account or safe deposit box that is titled in the name of, individually or jointly, or otherwise subject to access by, any Defendant;

C. Following a request by the Receiver, provide the Receiver, within five business days of receiving a request, a sworn statement setting forth:

1. The identification number of each such account or Asset titled in the name, individually or jointly, of any Defendant, or held on behalf of, or for the benefit of any Defendant;

2. The balance of each such account, or a description of the nature and value of such Asset as of the close of business on the day on which a request is served, and, if the account or other Asset has been closed or removed, the date closed or removed, the total funds removed in order to close the account, and the name of the person or entity to whom such account or other Asset was remitted; and

3. The identification of any safe deposit box that is titled in the name of, individually or jointly or otherwise subject to access by, any Defendant.

D. Upon request by the Receiver, immediately provide the Receiver with copies of all records or other documentation pertaining to each such account or Asset, including, but not limited to, originals or copies of account applications, account statements, signature cards, checks, drafts, deposit tickets, transfers to and from the accounts, all other debit and credit instruments or slips, currency transaction reports, 1099 forms, and safe deposit box logs.

NOTHING HEREIN shall abrogate any Individual Defendant's ability to assert his or her right against self-incrimination. **NOTHING HEREIN** shall abrogate any adverse inferences that may be drawn in the civil context from the assertion of the Individual Defendant's right against self-incrimination.

V. EXPEDITED DISCOVERY

IT IS FURTHERED ORDERED that, in anticipation of the temporary injunction and receivership hearing in this matter, the State and the Receiver are authorized to conduct expedited discovery concerning Defendants' Assets, transfers made, obligations incurred, and the location of business records in accordance with the following provisions:

A. The State and the Receiver may take the depositions of parties and non-parties. Notice provided five calendar days in advance shall be sufficient for such depositions;

B. The State and the Receiver may serve upon the parties requests for production of documents or inspection that require production or inspection within five (5) calendar days of service, and may serve subpoenas upon non-parties that direct production or inspection within five (5) calendar days of service;

C. The State and the Receiver may serve deposition notices and other discovery requests upon the parties to this action by facsimile or overnight courier, and depositions may be taken by telephone or other remote electronic means; and

D. Any discovery taken pursuant to this Order is in addition to any discovery conducted under the case-in-chief.

VI. ORDER APPOINTING *PENDENTE LITE* RECEIVER

IT IS FURTHER ORDERED that John C. McLemore, who is currently the receiver for HRC Medical, is appointed *Pendente Lite* Receiver over Defendants Bella Vita, Midwest Management, Midwest Restorative Health, HRC Holdings, HRC Management, the Cardinal Revocable Trust, Legacy, and BioLifecycle ("Entity Receivership Defendants") and all of the tangible and intangible Assets and property, both personal and real, of these Defendants until further order of this Court. Further, all of the Assets are hereby placed *in custodia legis* and shall be subject to the exclusive jurisdiction of this Court. The Receiver shall be the agent of this Court, and solely the agent of this Court, in acting as Receiver under this Order.

IT IS FURTHER ORDERED that John C. McLemore is also appointed *Pendente Lite* Receiver over the personal Assets, including tangible and intangible Assets and property, both personal and real, of Defendants Don Hale, Dan Hale, Dixie Hale, individually and doing business as Southern Belle, Bonnie Hale, and Michael Montemurro, doing business as MadMac, ("Individual Receivership Defendants"). Further, all of the Assets are hereby placed in *custodia legis* and shall be subject to the exclusive jurisdiction of this Court. The Receiver shall be accountable directly to this Court, and solely the agent of this Court, in acting as Receiver under this Order.

A. RECEIVER'S DUTIES

IT IS FURTHER ORDERED that the Receiver shall have all powers at law and equity to carry out his duties and shall perform his duties under the supervision of the Court.

IT IS FURTHER ORDERED that the Receiver is authorized and directed to accomplish the following:

1. Upon service of this order, take exclusive custody, control, and possession of any personal bank accounts or other Assets held individually or jointly by any one of the Individual Receivership Defendants and inventory, through digital video or other means, all Assets, documents, and other materials of, or in the possession, custody, or under control of the Individual Receivership Defendants.

2. Distribute funds, to the extent available, recovered from an Individual Receivership Defendant to that Individual Receivership Defendant by,

(a) making home mortgage payments for a mortgage incurred prior to entry of this Order;

(b) making motor vehicle payments for a loan incurred prior to entry of this Order;

(c) paying for reasonable living expenses such as groceries, utilities, clothing, basic home maintenance, health insurance, life insurance, or other expenses deemed reasonable by the Receiver **PROVIDED THAT** these expenses shall not exceed $2,500 per Individual Receivership Defendant, *excluding* (a) and (b) above, between entry of this Order and resolution of the temporary injunction and receivership hearing and shall be documented with receipts or other payment information.

NOTHING HEREIN shall prohibit an Individual Receivership Defendant from retaining the counsel of his or her choice, provided that he or she obtains court approval of reasonable attorneys' fees to be applied to that Individual Receivership Defendant's estate. Further, an Individual Receivership Defendant may petition the Court for relief, with notice and an opportunity

to respond provided to the State and the Receiver, should he or she disagree with the Receiver's payment decision.

3. Take exclusive custody, control, and possession of all Assets, documents, and other materials of, or in the possession, custody, or under the control of, Entity Receivership Defendants wherever situated.

4. Conserve, hold, and preserve all Assets of the Entity Receivership Defendants, and notify the Court and the parties if any Asset will be irreparably lost, damaged, or devalued between appointment and resolution of the temporary injunction and receivership hearing.

5. Make payments and disbursements from the Entity Receivership Defendants that are necessary or advisable for carrying out the directions of, or exercising the authority granted by, this Order, or that are used to maintain the *status quo* of the Entity Receivership Defendant until a full hearing can be had by:

(a) making payroll payments;

(b) making any rent payments owed to a third party that come due between the entry of this Order and resolution of the temporary injunction and receivership hearing; and

(c) paying for reasonable business expenses such as utilities, basic business location maintenance, or other expenses deemed reasonable by the Receiver **PROVIDED THAT** these expenses shall not exceed $10,000 per Entity Receivership Defendant, *excluding* (1) and (2), between entry of this Order and resolution of the temporary injunction and receivership hearing and shall be documented with receipts or other payment information.

NOTHING HEREIN shall prohibit any Entity Receivership Defendant from retaining the counsel of its choice, provided that it obtain court approval of reasonable attorneys' fees to be applied to that Entity Receivership Defendant's estate. Further, an Entity Receivership Defendant may petition the Court for relief, with notice and an opportunity to respond provided to the State and the Receiver, should it disagree with the Receiver's payment decision.

6. Take all steps necessary to secure each location from which an Entity Receivership Defendant operates its businesses. Such steps may include, but are not limited to, any of the following, as the Receiver deems necessary or advisable: (1) serving this Order; (2) completing a written inventory of all receivership Assets; (3) obtaining pertinent information from all employees and other agents of Entity Receivership Defendants, including, but not limited to, the name, home address, Social Security Number, job description, passwords or access codes, method of compensation, and all accrued and unpaid commissions and compensation of each such employee or agent; (4) recording any or all portions of verbal conversations with or instructions given to Entity Receivership Defendants or their employees, or other agents of Entity Receivership Defendants; (5) photographing and videotaping any or all portions of the location; (6) securing the location by changing the locks and disconnecting any online or other means of access to the computer or other records maintained at that location; (7) moving Assets, equipment, furniture, documents or other items from any location from which Entity Receivership Defendants operate for the purpose of securing such items; (8) requiring any persons present on the premises at the time this Order is served to leave the premises, to provide the Receiver with proof of identification, or to demonstrate to the satisfaction of the Receiver that such persons are not removing from the premises documents or Assets of Entity Receivership Defendants; (9) arranging to have any

medical waste removed from any location at which any Entity Receivership Defendant is operating its business, and (10) opening mail addressed to an Entity Receivership Defendant.

7. Issue subpoenas to obtain documents, records, and testimony pertaining to the Receivership, and conduct discovery in this action on behalf of the Receivership estate.

8. Open bank accounts as designated depositories for funds of the Entity Receivership Defendants and Individual Receivership Defendants.

9. Choose, engage, and employ attorneys, accountants, appraisers, and other independent contractors and technical specialists, as the Receiver deems advisable or necessary in the performance of duties and responsibilities under the authority granted by this Order.

10. Maintain accurate records of all receipts and expenditures incurred as Receiver; and

11. Cooperate with reasonable requests for information or assistance from any state, federal law enforcement agency, any Defendant, or any Defendant's counsel.

12. Request the use of law enforcement personnel, including, but not limited to, highway patrol, police, or sheriffs, to assist the Receiver in implementing these provisions for both the Individual Receivership Defendants and the Entity Receivership Defendants in order to keep the peace and maintain security. If requested by the Receiver, law enforcement may provide appropriate and necessary assistance to the Receiver to implement this Order.

B. FINANCIAL DISCLOSURES

IT IS FURTHER ORDERED that each Defendant, within forty-eight (48) hours of service of this Order, shall complete and deliver to counsel for the State and to the Receiver, completed financial statements under penalty of perjury on the forms attached to this Order as Attachment A (Financial Statement of Individual Defendant) for themselves individually, and Attachment B (Financial Statement of Entity Defendant) for each business entity under which they conduct